

Exhibit 1

To: SingularDTV (usptomail@bnpatentlaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 79212130 - SINGULARDTV - 1398 002 901
Sent: 2/20/2018 2:13:24 PM
Sent As: ECOM104@USPTO.GOV
Attachments:

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION
SERIAL NO.** 79212130

MARK: SINGULARDTV

79212130

CORRESPONDENT

ADDRESS:

Michael J. Nickerson
Basch & Nickerson LLP
1751 Penfield Road
Penfield NY 14526

**GENERAL TRADEMARK
INFORMATION:**

<http://www.uspto.gov/trademarks/index.jsp>

[VIEW YOUR APPLICATION FILE](#)

APPLICANT:

SingularDTV

**CORRESPONDENT'S
REFERENCE/DOCKET
NO:**

1398 002 901

**CORRESPONDENT E-
MAIL ADDRESS:**

usptomail@bnpatentlaw.com

SUSPENSION NOTICE: NO RESPONSE NEEDED

ISSUE/MAILING DATE: 2/20/2018

INTERNATIONAL REGISTRATION NO. 1355164

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The effective filing date of the pending application(s) identified below precedes the filing date of applicant's application. If the mark in the referenced application(s) registers, applicant's mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark(s). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application(s) is either registered or abandoned. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced application(s) was sent previously.

- Application Serial No(s). 79212130

Applicant's Class 38 services are broader than and would include the services in the prior-filed application.

REFUSAL(S)/REQUIREMENT(S) WITHDRAWN: The following refusal(s)/requirement(s) is/are withdrawn:

- Section 2(d) Refusal with U.S. Reg. No. 3522207
- Issue Regarding Applicant's Entity Type

REFUSAL(S)/REQUIREMENT(S) CONTINUED AND MAINTAINED: The following refusal(s)/requirement(s) is/are continued and maintained:

- **Section 2(d) Refusal with U.S. Reg. Nos. 5221770, 3386087, 3415250, and 3412341**
 - Applicant's mark and the marks in the cited registration are comprised of SINGULAR in the first position and followed by descriptive wording.
 - With regard to the '770 registration, the software in the cited registration is related to many of the music information and other music related services in applicant's Class 41 identification.
 - With regard to the additional registrations, the Class 42 services in the cited registrations are broader than and would include applicant's more narrow Class 42 services.
 - Applicant argues that the marks have been dissected and rather should be evaluated as a whole. Although the marks are not identical, they do make overall similar commercial impressions.
 - In addition, applicant contends that DTV is not merely descriptive, however, it provides no additional statements or guidance as to the meaning of this wording if not the merely descriptive meaning.
- **Identification of Goods and Services**
 - In Class 9, applicant must remove the semi-colons that separate the functions of its software. As present, it reads as mis-classified services.
 - In Class 35, applicant must make clear its tracking services are electronic in nature and applicant must indicate a type of auditing properly classified in Class 35 e.g., business auditing
 - Class 38 remains definite
 - Class 41 is definite as amended
 - Class 42 is definite as amended
 - In Class 45, the wording "management" is indefinite and must be clarified. As worded, this could describe business services in Class 35.

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. See TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the "Response to Suspension Inquiry or Letter of Suspension" form online at <http://teasroa.uspto.gov/rsi/rsi>.

/Michael Eisnach/
Examining Attorney
Law Office 104
(571) 272-2592
Michael.Eisnach@uspto.gov

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: SingularDTV (usptomail@bnpatentlaw.com)
Subject: U.S. TRADEMARK APPLICATION NO. 79212130 - SINGULARDTV - 1398 002 901
Sent: 2/20/2018 2:13:25 PM
Sent As: ECOM104@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **2/20/2018** FOR U.S. APPLICATION SERIAL NO. 79212130

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay "fees."

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the "United States Patent and Trademark Office" in Alexandria, VA; or sent by e-mail from the domain "@uspto.gov." For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.